

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

USDC SDNY  
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DATE FILED NOV 29 2016

Gloria D. Wiseman,

Plaintiff,

—v—

ING Groep, N.V. *et al.*,

Defendants.

16-cv-07587 (AJN)

ORDER

ALISON J. NATHAN, District Judge:

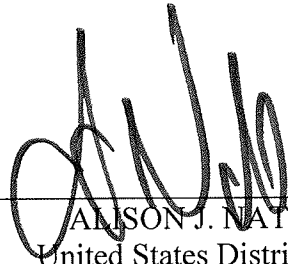
On November 23, 2016, Defendants Voya Financial and Reliastar Life Insurance Company of New York filed a motion to dismiss. Pursuant to Rule 3.F of this Court's Individual Practices in Civil Cases, on or before December 5, 2016, Plaintiff must notify the Court and her adversary in writing whether (1) she intends to file an amended pleading and when she will do so or (2) she will rely on the pleading being attacked. Plaintiff is on notice that declining to amend her pleadings to timely respond to a fully briefed argument in the Defendants' November 23, 2016 motion to dismiss may well constitute a waiver of the Plaintiff's right to use the amendment process to cure any defects that have been made apparent by the Defendants' briefing. *See Loreley Fin. (Jersey) No. 3 Ltd. v. Wells Fargo Sec., LLC.*, 797 F.3d 160 (2d Cir. 2015) (leaving "unaltered the grounds on which denial of leave to amend has long been held proper, such as undue delay, bad faith, dilatory motive, and futility").

If Plaintiff chooses to amend, Defendants may then (a) file an answer; (b) file a new motion to dismiss; or (c) submit a letter stating that they rely on the initially-filed motion to dismiss.

Nothing in this Order alters the time to amend, answer or move provided by the Federal Rules of Civil Procedure or Local Rules.

SO ORDERED.

Dated: November 29, 2016  
New York, New York

A handwritten signature in black ink, appearing to read 'Alison J. Nathan', is written over a horizontal line.

ALISON J. NATHAN  
United States District Judge